

- Denmark, Finland and Ireland each have 3 votes;
- Luxembourg has 2 votes.

The distribution of votes in an enlarged Union is a subject very much discussed. The large number of small countries wishing to accede could impair, or render inoperative, the functioning of the existing institutional structure. Indeed, the larger States could see their power diluted by possible alliances between smaller Member States. If they vote together, smaller States could control the success or failure of many legislative proposals.

In spite of the foregoing concerns, the general feeling is that there must be an increase in the use of the QMV. It would help avoid ever-increasing stalemate in the legislative process as proposals intrude deeper into previously national spheres. The IGC considered the possibility that the unanimity requirement be reserved only for politically sensitive matters, being foreign and security policy and taxation. The suggestion, however, was not retained.

iii. Legal Basis for Proposals

The most significant factor in the legislative process is the legal foundation upon which any Commission proposal is based. This legal foundation determines the Council voting procedure and thus whether the possibility exists for a Member State to block a proposal. As few matters fall discretely under one heading, the primary legal basis, or purpose for the proposal, must be clearly established. The characterisation of any proposal, therefore, plays a significant part in determining the manner in which an issue will be dealt with by Council.

The Commission and the Council, on occasion, disagree over the legal basis of a measure. Generally, the Commission endeavours to base the majority of its proposals on articles of the Treaties which provide for qualified majority voting only with the intention of avoiding recourse to the unanimity. The use of the QMV process is seen to facilitate the success, and timely adoption of the majority of the Commission's proposals. Council, and increasingly Parliament, may challenge the validity, or appropriateness of the legal basis of Commission proposals. In addition, certain provisions, notably Article 90 of the EC Treaty, grant special powers to the Commission enabling it to adopt legislation unilaterally – that is, without consulting the Council or Parliament – in particular situations. The Commission's recourse to such a power is obviously one of last resort.

Council Activities in Common Foreign and Security Policy (CFSP)

The Council of the European Union is the forum within which Member States cooperate inter-governmentally on any matter falling within the objectives of the CFSP.

Acting with the delegated political authority of the European Council, the Council of the European Union plays a primary role in defining and adopting "common position" or "joint action" (Article J.3 of the TEU). Unanimity is always required to adopt a common position, or a joint action, and to determine the scope, duration, nature and objectives in a particular area. The Treaty does provide for the use of the QMV to implement a joint action, but this has never been the practice.

The Presidency of the Council ultimately acts in a representative capacity for the Union in matters falling within the parameters of the CFSP. This includes the power to represent the Member States at international organisations and conferences.

Article J.4 of the TEU states that CFSP "shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence". At present the CFSP, which provides the basis for intergovernmental cooperation among the Member States in the foregoing areas, has a number of parallels with the Western European Union (WEU) to which some Member States belong. The TEU expressly recognised the WEU as integral to the development of the Union, but the then 12 Member States failed to agree on the link of dependency between the two institutions.

The CFSP can also influence the manner in which Member States fulfil their obligations within NATO and the UN. The 1996 IGC briefly and inconclusively addressed the inter-relationship and mutual obligations of the participatory States in each of these organisations. The discussions were part of a re-assessment of the Union's expanding role in the areas of foreign security and defence policy, scheduled in the TEU.

The Treaty of Amsterdam modifies the CFSP. The list of objectives of CFSP now includes safeguarding the integrity of the Union in accordance with the principles of the United Nations and, at the request of Greece, the respect of the principles related to the external borders of the Union. The second paragraph of Article C of the TEU is also modified to specify that the Council and the Commission are obliged to cooperate in order to ensure coherence of the Union's external activities as a whole. Furthermore, a political